

PATENT  
Docket No. 315.0001 0101IN THE UNITED STATES PATENT AND TRADEMARK OFFICERECEIVED  
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MAR 31 2005

Applicant(s): JANSSEN, Terrance E. )  
Serial No.: 10/721,698 )  
Confirmation No.: 6282 )  
Filed: November 25, 2003 )  
For: HEAT EXCHANGE APPARATUS, SYSTEM AND METHODS REGARDING  
SAME )

Group Art Unit: 3753  
Examiner: JOHN K. FORD

FACSIMILE TRANSMISSION TO THE PTO

Commissioner for Patents  
Attn: Mail Stop Amendment  
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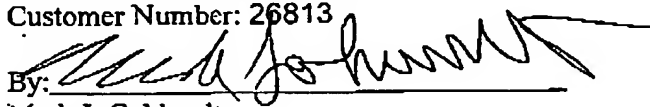
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☒ Small Entity Status is entitled to be asserted in the above-identified application.

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Mucting, Raasch & Gebhardt, P.A.  
Customer Number: 26813

31 March 2005  
Date

By:   
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3/31/05  
Date

Signature: Sandy Truehart  
Name: Sandy Truehart

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RESPONSE TO RESTRICTION REQUIREMENT  
AND SPECIES ELECTION

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Examiner issued a Restriction Requirement mailed March 1, 2005, requiring election to one of the following inventions:

- I. Claims 1-21, drawn to 28-37.
- II. Claims 22-27.

In response to the Restriction Requirement Applicant elects, with traverse, Group I (claims 1-21 and 28-39). Although page 2 of the Restriction Requirement only lists Group I claims as including claims 1-21 and 28-37, it is believed and assumed that the Examiner meant claims 1-21 and 28-39. If this is not a correct understanding, then it is requested that the Examiner contact Applicant's representative.

Additionally, the Examiner further alleges that the application contains claims directed to the following patentably distinct species of the claimed invention:

Set A Species including:

Species I: Claims directed to the wound pipe as shown in Figures 1 and 3;

Species II: Claims directed to the wound pipe as shown in Figure 2.

**Response to Restriction Requirement and Species Election**

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Set B Species including: Species I: Claims directed to the closed system using direct expansion of refrigerant (e.g., claim 12);

Species II: Claims directed to the closed system using an intermediate fluid (e.g., claim 13).

Set C Species including: Species I: Claims directed to conditioning equipment comprising a heat pump;

Species II: Claims directed to conditioning equipment comprising an HVAC system.

In response to the Examiner's allegation that the application contains claims directed to multiple patentably distinct species of the claimed invention, Applicant elects, with traverse:

Set A Species, Species I: Claims directed to the wound pipe as shown in Figures 1 and 3;

Set B Species, Species II: Claims directed to the closed system using an intermediate fluid; and

Set C Species, Species I: Claims directed to conditioning equipment comprising a heat pump.

The following claims read on the species elected: Claims 1-9, 13-19, 28-32, and 36. It should be noted that claims 1-9, 13-19, 28-32, and 36, are generic with respect to Set A Species, Species II: Claims directed to the wound pipe as shown in Figure 2. Claims 10-11, 20-21, and 33-34 read on Species II.

Applicant respectfully requests reconsideration and withdrawal or modification of the restriction requirement. Although Applicant does not traverse the Examiner's determination that the inventions are distinct, it is respectfully submitted that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner. That is, all the claims are so interrelated that a search of one group of claims will reveal art to the others. This is particularly the case in the Examiner's identification of species, and particularly with respect to the Set A Species.

Furthermore, with respect to the species election, this election is with traverse to the extent that it is understood that (a) the requirement will be withdrawn upon the finding of an allowable genus; and (b) any species withdrawn from consideration will be transferred to the

## Response to Restriction Requirement and Species Election

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elected subject matter unless it is found patentably distinct from the elected or allowed claims.

Further, were restriction to be effected between the claims of Groups I and II, a separate examination of the claims in these groups would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims of the Groups would have to be as rigorous as when only the claims of Group I, for example, were being considered by themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated. Further, Applicant submits that for restriction to be effected between the claims in the Groups, it would place an undue burden by requiring payment of separate filing fees for examination of the nonelected claims, as well as the added costs associated with prosecuting the applications and maintaining patents issuing therefrom.

Applicant reserves the right to pursue examination of any non-elected claims in continuation or divisional applications.

The Examiner is invited to contact Applicant's Representatives, at the below-listed telephone number if prosecution of this application may be assisted thereby.

## CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 31 day of MARCH, 2005, at 9:35 A.M. (Central Time).

Sandy Truehart  
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31 March 2005  
Date

Respectfully submitted for  
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